

UNITED STATES COURT OF APPEALS
SOUTHERN DISTRICT OF NEW YORK

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MCDERMOTT & RADZIK, LLP.,

Plaintiff

07 Civ. 8220 (SHS)

-against-

GRACE AHRENS, WILLIAM H. MARTOCCIA,
INC., and WHM, INC.

**DEFENDANTS' AMENDED
ANSWER
JURY TRIAL DEMANDED**

Defendants.

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Defendants GRACE AHRENS, WILLIAM H. MARTOCCIA, INC., and WHM, INC., by and through their attorneys, **ARONWALD & PYKETT**, as and for their Answer to Plaintiffs' First Amended Complaint ("the Complaint), state as follows:

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.
2. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.
3. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.
4. Defendant GRACE AHRENS admits the allegations contained in paragraph 4 of the Complaint.
5. Defendant WILLIAM H. MARTOCCIA, INC. (a/k/a WHM, Inc.) denies the allegations contained in paragraph 5 of the Complaint.
6. Defendants refer all questions of law relating to the allegations contained in paragraph 6 of the Complaint to the Court.
7. Defendant GRACE AHRENS admits the allegations contained in paragraph 7 of the Complaint.
8. Defendants refer all questions of law relating to the allegations contained in paragraph 8 of the Complaint to the Court.
9. Defendants deny the allegations contained in paragraph 9 of the Complaint except

they admit that they entered into the written agreement annexed as Exhibit "A" to the Complaint.

10. Defendants admit the allegations contained in paragraph 10 of the Complaint.

11. Defendants deny the allegations contained in paragraph 11 of the Complaint except they admit that Plaintiff was relieved as defendants' attorney by the Honorable Richard B. Lowe on or about July 12, 2007.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint except they admit that received billings from Plaintiff which purported to represent work actually performed on defendants' behalf.

13. Defendants admit the allegations contained in paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in paragraph 15 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Court lacks jurisdiction over the answering Defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

_____ The First Amended Complaint fails to state a claim upon which relief can be granted as against Defendants GRACE AHRENS, WILLIAM H. MARTOCCIA, INC., and WHM, INC.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

The First Amended Complaint is barred by the Doctrine of Estoppel.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff is entitled to payment of legal fees for services rendered to Defendants, recovery is limited to the reasonable value of the services.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff is entitled to payment of legal fees for services rendered to Defendants, the amount thereof is offset by Plaintiff's failure to mitigate its damages.

WHEREFORE, Defendants **GRACE AHRENS, WILLIAM H. MARTOCCIA, INC.,** and **WHM, INC.**, demand judgment dismissing the First Amended Complaint on the merits, together with the costs, disbursements and expenses of this action..

Dated: October 31, 2007

White Plains, New York

ARONWALD & PYKETT

Attorneys for all Defendants.

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White Plains, New York 10601

(914) 946-6565

By: /s/

WILLIAM I. ARONWALD (WIA-9327)